

House Study Bill 737

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC DEFENSE BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act concerning the department of public defense, including the
2 military, civil air patrol, and homeland security and
3 emergency management, and providing penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 5381XD 81
6 ec/gg/14

PAG LIN

1 Section 1. Section 29A.28, subsections 1 and 3, Code 2005,
2 are amended to read as follows:

1 3 1. All officers and employees of the state, or a
1 4 subdivision thereof, or a municipality other than employees
1 5 employed temporarily for six months or less, who are members
1 6 of the national guard, organized reserves or any component
1 7 part of the military, naval, or air forces or nurse corps of
1 8 this state or nation, or who are or may be otherwise inducted
1 9 into the military service of this state or of the United
1 10 States, or who are members of the civil air patrol, shall,
1 11 when ordered by proper authority to state active duty, state
1 12 military service, or federal service, or when performing a
1 13 civil air patrol mission pursuant to section 29A.3A, be
1 14 entitled to a leave of absence from such civil employment for
1 15 the period of state active duty, state military service, ~~or~~
1 16 federal service, or civil air patrol duty without loss of
1 17 status or efficiency rating, and without loss of pay during
1 18 the first thirty days of such leave of absence. Where state
1 19 active duty, state military service, ~~or~~ federal service, ~~or~~
1 20 civil air patrol duty is for a period of less than thirty
1 21 days, a leave of absence under this section shall only be
1 22 required for those days that the civil employee would normally
1 23 perform services for the state, subdivision of the state, or a
1 24 municipality.

1 25 3. Upon returning from a leave of absence under this
1 26 section, an employee shall be entitled to return to the same
1 27 position and classification held by the employee at the time
1 28 of entry into state active duty, state military service, ~~or~~
1 29 federal service, or civil air patrol duty, or to the position
1 30 and classification that the employee would have been entitled
1 31 to if the continuous civil service of the employee had not
1 32 been interrupted by state active duty, state military service,
1 33 ~~or~~ federal service, or civil air patrol duty. Under this
1 34 subsection, "position" includes the geographical location of
1 35 the position.

2 1 Sec. 2. Section 29A.40, unnumbered paragraph 2, Code 2005,
2 2 is amended to read as follows:

2 3 Any person who, without authority under the laws of the
2 4 United States or of one of the states, wears the uniform of,
2 5 or a distinctive part of the uniform of the armed forces of
2 6 the United States, shall be guilty of a ~~simple~~ serious
2 7 misdemeanor.

2 8 Sec. 3. Section 29A.43, subsection 1, Code Supplement
2 9 2005, is amended to read as follows:

2 10 1. A person shall not discriminate against any officer or
2 11 enlisted person of the national guard or organized reserves of
2 12 the armed forces of the United States or any member of the
2 13 civil air patrol because of that membership. An employer, or
2 14 agent of an employer, shall not discharge a person from
2 15 employment because of being an officer or enlisted person of
2 16 the military forces of the state or member of the civil air
2 17 patrol, or hinder or prevent the officer or enlisted person or
2 18 member of the civil air patrol from performing any military

2 19 service or civil air patrol duty the person is called upon to
2 20 perform by proper authority. A member of the national guard
2 21 or organized reserves of the armed forces of the United States
2 22 ordered to temporary duty, as defined in section 29A.1,
2 23 subsection 3, 11, or 12, or a member of the civil air patrol
2 24 performing duty pursuant to section 29A.3A, for any purpose is
2 25 entitled to a leave of absence during the period of the duty
2 26 or service, from the member's private employment, other than
2 27 employment of a temporary nature, and upon completion of the
2 28 duty or service the employer shall restore the person to the
2 29 position held prior to the leave of absence, or employ the
2 30 person in a similar position. However, the person shall give
2 31 evidence to the employer of satisfactory completion of the
2 32 training or duty, and that the person is still qualified to
2 33 perform the duties of the position. The period of absence
2 34 shall be construed as an absence with leave, and shall in no
2 35 way affect the employee's rights to vacation, sick leave,
3 1 bonus, or other employment benefits relating to the employee's
3 2 particular employment. A person violating a provision of this
3 3 section is guilty of a simple misdemeanor.

3 4 Sec. 4. Section 29A.57, subsection 3, paragraph d, Code
3 5 2005, is amended to read as follows:
3 6 d. Grant a temporary or permanent easement with or without
3 7 monetary consideration for utility, or public highway, or
3 8 other purposes if granting the easement will not adversely
3 9 affect use of the real estate for military purposes.

3 10 Sec. 5. Section 29A.99, Code 2005, is amended by striking
3 11 the section and inserting in lieu thereof the following:
3 12 29A.99 MAXIMUM RATE OF INTEREST.

3 13 1. An obligation or liability bearing interest at a rate
3 14 in excess of six percent per year that is incurred by a
3 15 service member either individually or jointly with the service
3 16 member's spouse before the service member enters military
3 17 service shall not bear interest at a rate in excess of six
3 18 percent per year during the service member's period of
3 19 military service. Interest that would otherwise be incurred
3 20 but for the prohibition in this section is forgiven. The
3 21 amount of any periodic payment due from a service member under
3 22 the terms of the instrument that created an obligation or
3 23 liability covered by this section shall be reduced by the
3 24 amount of the interest forgiven under this section that is
3 25 allocable to the period for which such payment is made.

3 26 2. In order for an obligation or liability of a service
3 27 member to be subject to the interest rate limitation in this
3 28 section, the service member shall provide to the creditor
3 29 written notice and a copy of the military orders calling the
3 30 service member to military service and any orders further
3 31 extending military service, not later than one hundred eighty
3 32 days after the date of the service member's termination or
3 33 release from military service. Upon receipt of written notice
3 34 and a copy of orders calling a service member to military
3 35 service, the creditor shall treat the debt in accordance with
4 1 this section, effective as of the date on which the service
4 2 member is called to military service.

4 3 3. A court may grant a creditor relief from the
4 4 limitations of this section if, in the opinion of the court,
4 5 the ability of the service member to pay interest upon the
4 6 obligation or liability at a rate in excess of six percent per
4 7 year is not materially affected by reason of the service
4 8 member's military service.

4 9 4. As used in this section, the term "interest" includes
4 10 service charges, renewal charges, fees, or any other charges,
4 11 except for bona fide insurance, with respect to an obligation
4 12 or liability.

4 13 Sec. 6. Section 29A.101A, Code 2005, is amended by
4 14 striking the section and inserting in lieu thereof the
4 15 following:
4 16 29A.101A TERMINATION OF LEASE BY SERVICE MEMBER ==
4 17 PENALTY.

4 18 1. For purposes of this section, unless the context
4 19 otherwise requires:
4 20 a. "Premises lease" means a lease of premises occupied, or
4 21 intended to be occupied, by a service member or a service
4 22 member's dependents for a residential, professional, business,
4 23 agricultural, or similar purpose if either of the following
4 24 applies:
4 25 (1) The lease is executed by or on behalf of a person who
4 26 thereafter and during the term of the lease enters military
4 27 service.
4 28 (2) The service member, while in military service,
4 29 executes the lease and thereafter receives military orders for

4 30 a permanent change of station or to deploy with a military
4 31 unit, or as an individual in support of a military operation,
4 32 for a period of not less than ninety days.

4 33 b. "Vehicle lease" means a lease of a motor vehicle used,
4 34 or intended to be used, by a service member or a service
4 35 member's dependents for personal or business transportation if
5 1 either of the following applies:

5 2 (1) The lease is executed by or on behalf of a person who
5 3 thereafter and during the term of the lease enters military
5 4 service under a call or order specifying a period of service
5 5 of not less than ninety days, or who enters military service
5 6 under a call or order specifying a period of ninety days of
5 7 service or less and who, without a break in service, receives
5 8 orders extending the period of military service to a period of
5 9 not less than ninety days.

5 10 (2) The service member, while in military service,
5 11 executes the lease and thereafter receives military orders to
5 12 deploy with a military unit, or as an individual in support of
5 13 a military operation, for a period of not less than ninety
5 14 days.

5 15 2. A service member may terminate a premises lease or
5 16 vehicle lease pursuant to the requirements of this section.
5 17 Termination of a premises lease or vehicle lease shall be made
5 18 as follows:

5 19 a. By delivery by the lessee of written notice of such
5 20 termination, and a copy of the service member's military
5 21 orders, to the lessor or the lessor's grantee, or to the
5 22 lessor's agent or the agent's grantee. A lessee's termination
5 23 of a lease pursuant to this subsection shall terminate any
5 24 obligation a dependent of the lessee may have under the lease.
5 25 For purposes of this paragraph, written notice may be
5 26 accomplished by hand delivery, by private business carrier, or
5 27 by placing the written notice in an envelope with sufficient
5 28 postage and with return receipt requested, and addressed as
5 29 designated by the lessor or the lessor's grantee or to the
5 30 lessor's agent or the agent's grantee, and depositing the
5 31 written notice in the United States mail.

5 32 b. In the case of a vehicle lease, by return of the motor
5 33 vehicle by the lessee to the lessor or the lessor's grantee,
5 34 or to the lessor's agent or the agent's grantee, not later
5 35 than fifteen days after the date of the delivery of written
6 1 notice under paragraph "a". A lessee's termination of a lease
6 2 pursuant to this subsection shall terminate any obligation a
6 3 dependent of the lessee may have under the lease.

6 4 3. In the case of a premises lease that provides for
6 5 monthly payment of rent, termination of the lease is effective
6 6 thirty days after the first date on which the next rental
6 7 payment is due and payable after the date on which the notice
6 8 is delivered. In the case of any other premises lease,
6 9 termination of the lease is effective on the last day of the
6 10 month following the month in which the notice is delivered.

6 11 4. In the case of a vehicle lease, termination of the
6 12 lease is effective on the day on which the vehicle is
6 13 delivered to the lessor or the lessor's grantee.

6 14 5. Rents or lease amounts unpaid for the period preceding
6 15 the effective date of the lease termination shall be paid on a
6 16 prorated basis. In the case of a vehicle lease, the lessor
6 17 may not impose an early termination charge, but any taxes,
6 18 summonses, and title and registration fees and any other
6 19 obligation and liability of the lessee in accordance with the
6 20 terms of the lease, including reasonable charges to the lessee
6 21 for excess wear, use, and mileage, that are due and unpaid at
6 22 the time of termination of the lease shall be paid by the
6 23 lessee.

6 24 6. Rents or lease amounts paid in advance for a period
6 25 after the effective date of the termination of the lease shall
6 26 be refunded to the lessee by the lessor or the lessor's
6 27 assignee or the assignee's agent within thirty days of the
6 28 effective date of the termination of the lease.

6 29 7. Upon application by the lessor to a court before the
6 30 termination date provided in the written notice, relief
6 31 granted by this section to a service member may be modified as
6 32 justice and equity require.

6 33 8. a. Any person who knowingly seizes, holds, or detains
6 34 the personal effects, security deposit, or other property of a
6 35 service member or a service member's dependent who lawfully
7 1 terminates a lease covered by this section, or who knowingly
7 2 interferes with the removal of such property from premises
7 3 covered by such lease, for the purpose of subjecting or
7 4 attempting to subject any of such property to a claim for rent
7 5 accruing subsequent to the date of termination of such lease,

7 6 or attempts to do so, commits a simple misdemeanor.

7 7 b. The remedy and rights provided under this section are
7 8 in addition to and do not preclude any remedy for wrongful
7 9 conversion otherwise available under law to the person
7 10 claiming relief under this section.

7 11 Sec. 7. Section 29A.102, subsection 1, Code 2005, is
7 12 amended to read as follows:

7 13 1. The creditor of a service member who, prior to entry
7 14 into military service, has entered into an installment
7 15 contract for the purchase or lease of real or personal
7 16 property, including a motor vehicle, shall not terminate the
7 17 contract or repossess the property for nonpayment or for any
7 18 breach occurring during military service without an order from
7 19 a court of competent jurisdiction.

7 20 Sec. 8. Section 29C.8, subsection 3, paragraph f, Code
7 21 Supplement 2005, is amended to read as follows:

7 22 f. ~~(1)~~ Approve and support the development and ongoing
7 23 operations of ~~an urban search and rescue team~~ homeland
7 24 security and emergency response teams to be deployed as a
7 25 resource to supplement and enhance disrupted or overburdened
7 26 local emergency and disaster operations and deployed as
7 27 available to provide assistance to other states pursuant to
7 28 the interstate emergency management assistance compact
7 29 described in section 29C.21. The following shall apply to
7 30 homeland security and emergency response teams:

7 31 ~~(2)~~ (1) A member of ~~an urban search and rescue~~ a homeland
7 32 security and emergency response team acting under ~~the~~
7 33 ~~authority~~ this section upon the directive of the administrator
7 34 or pursuant to a governor's disaster proclamation as provided
7 35 in section 29C.6 shall be considered an employee of the state
8 1 under for purposes of section 29C.21 and chapter 669 and shall
8 2 be afforded protection as an employee of the state under
8 3 section 669.21. Disability, workers' compensation, and death
8 4 benefits for team members working under the authority of the
8 5 administrator or pursuant to the provisions of section 29C.6
8 6 shall be paid by the state in a manner consistent with the
8 7 provisions of chapter 85, 410, or 411 as appropriate,
8 8 depending on the status of the member, provided that the
8 9 member is registered with the homeland security and emergency
8 10 management division as a member of an approved team and is
8 11 participating as a team member in a response or recovery
8 12 operation initiated by the administrator or governor pursuant
8 13 to this section or in a training or exercise activity approved
8 14 by the administrator.

8 15 (2) Each approved homeland security and emergency
8 16 management response team shall establish standards for team
8 17 membership, shall provide the division with a listing of all
8 18 team members, and shall update the list each time a member is
8 19 removed from or added to the team. Individuals so identified
8 20 as team members shall be considered to be registered as team
8 21 members for purposes of subparagraph (1).

8 22 (3) Upon notification of a compensable loss to a member of
8 23 a homeland security and emergency management response team,
8 24 the department of administrative services shall process the
8 25 claim and seek funding from the executive council for those
8 26 costs associated with covered benefits.

8 27 Sec. 9. Section 29C.20, subsection 1, paragraph a,
8 28 subparagraph (5), Code Supplement 2005, is amended to read as
8 29 follows:

8 30 (5) Paying the expenses incurred by and claims of ~~an urban~~
8 31 ~~search and rescue~~ a homeland security and emergency response
8 32 team when acting under the authority of the administrator and
8 33 ~~the provisions of section 29C.6~~ 29C.8 and public health
8 34 response teams when acting under the provisions of section
8 35 135.143.

9 1 Sec. 10. Section 29C.20, subsection 1, paragraph b, Code
9 2 Supplement 2005, is amended to read as follows:

9 3 b. When a state department or agency requests that moneys
9 4 from the contingent fund be expended to repair, rebuild, or
9 5 restore state property injured, destroyed, or lost by fire,
9 6 storm, theft, or unavoidable cause, or to repair, rebuild, or
9 7 restore state property that is fiberoptic cable and that is
9 8 injured or destroyed by a wild animal, or to purchase a police
9 9 service dog for the department of corrections when such a dog
9 10 is injured or destroyed, or for payment of the expenses
9 11 incurred by and claims of ~~an urban search and rescue~~ a
9 12 homeland security and emergency response team when acting
9 13 under the authority of the administrator and the provisions of
9 14 section 29C.6 29C.8, the executive council shall consider the
9 15 original source of the funds for acquisition of the property
9 16 before authorizing the expenditure. If the original source

9 17 was other than the general fund of the state, the department
9 18 or agency shall be directed to utilize moneys from the
9 19 original source if possible. The executive council shall not
9 20 authorize the repairing, rebuilding, or restoring of the
9 21 property from the disaster aid contingent fund if it
9 22 determines that moneys from the original source are available
9 23 to finance the project.

9 24 Sec. 11. NEW SECTION. 29C.20A CONTINGENT GRANT FUND ==
9 25 DISASTER AID.

9 26 1. A contingent grant fund is created in the state
9 27 treasury for the use of the executive council. Moneys in the
9 28 fund may be expended following the governor's proclamation of
9 29 disaster emergency. The executive council may make financial
9 30 grants to meet disaster-related expenses or serious needs of
9 31 individuals or families adversely affected by a disaster which
9 32 cannot otherwise be met by other means of financial
9 33 assistance. The aggregate total of grants awarded shall not
9 34 be more than one million dollars during a fiscal year.

9 35 However, within the same fiscal year, additional funds may be
10 1 specifically authorized by the executive council to meet
10 2 additional needs.

10 3 2. The grant funds shall be administered by the department
10 4 of human services. The department shall adopt rules to create
10 5 the Iowa individual assistance grant program. The rules shall
10 6 specify the eligibility of applicants and eligible items for
10 7 grant funding. The rules shall be adopted no later than
10 8 January 1, 2007. The executive council shall use contingent
10 9 grant funds to reimburse the department of human services for
10 10 its actual expenses associated with the administration of the
10 11 grants.

10 12 3. The amount of a grant shall not exceed twenty-five
10 13 percent of one hundred thirty percent of the federal poverty
10 14 level as defined by the most recently revised poverty income
10 15 guidelines published by the United States department of health
10 16 and human services. Expenses eligible for grant funding shall
10 17 be limited to personal property, home repair, and temporary
10 18 housing assistance. An applicant for a grant shall sign an
10 19 affidavit committing to refund any part of the grant that is
10 20 duplicated by any other assistance, such as but not limited to
10 21 insurance or assistance from community development groups,
10 22 charities, the small business administration, and the federal
10 23 emergency management agency.

10 24 EXPLANATION

10 25 This bill concerns the public defense department.

10 26 Code sections 29A.28 and 29A.43 are amended to provide that
10 27 members of the civil air patrol are treated similarly to
10 28 members of the national guard and reserves and are granted a
10 29 leave of absence without penalty from their jobs for civil air
10 30 patrol duty.

10 31 Code section 29A.40 is amended to increase the penalty for
10 32 false wearing of a military uniform from a simple to a serious
10 33 misdemeanor.

10 34 Code section 29A.57 is amended to authorize the armory
10 35 board to grant easements on state military property for
11 1 purposes other than utility or public highway purposes.

11 2 The Iowa national guard civil relief provisions of Code
11 3 chapter 29A are also amended by the bill. Code section
11 4 29A.99, regarding the maximum rate of interest that may be
11 5 charged on preservice obligations, is rewritten by the bill.
11 6 The bill provides that the interest protection provided by the
11 7 section applies to joint obligations of a service member and
11 8 the service member's spouse and that any interest over 6
11 9 percent is forgiven.

11 10 Code section 29A.101A, regarding termination of preservice
11 11 leases, is also rewritten by the bill. The rewritten section
11 12 provides that the lease termination provisions currently
11 13 applicable to real property leases also apply to motor vehicle
11 14 leases. The section sets out the notice and termination
11 15 requirements for each type of lease and provides that for
11 16 vehicle leases, the vehicle must be returned. The current
11 17 simple misdemeanor penalty for interference with a service
11 18 member or dependent in the exercise of rights under the
11 19 section is retained in the rewritten section.

11 20 Code section 29C.8 is amended by the bill. The bill
11 21 changes the reference to urban search and rescue teams to
11 22 homeland security and emergency response teams and provides
11 23 that such teams may be deployed to support an interstate
11 24 assistance request under the emergency management assistance
11 25 compact described in Code section 29C.21. The section is also
11 26 amended to provide that a member of such a team will be
11 27 considered a state employee for purposes of the compact if the

11 28 member is registered with the homeland security and emergency
11 29 management division on an approved team. The section also
11 30 requires approved teams to establish standards for membership
11 31 and keep updated lists of members. Finally, the amended
11 32 section provides that the department of administrative
11 33 services shall process claims for injury or loss by team
11 34 members and that funding shall be sought from the executive
11 35 council. Code section 29C.20 is also amended to reflect the
12 1 change in reference to homeland security and emergency
12 2 response teams.
12 3 New Code section 29C.20A creates a contingent grant fund
12 4 for the use of the executive council. The fund may be used to
12 5 make financial grants of up to \$1 million in a fiscal year
12 6 following a governor's disaster declaration to meet the needs
12 7 of individuals affected by the disaster. The fund will be
12 8 administered by the department of human services, which shall
12 9 adopt appropriate rules. In addition, the executive council
12 10 shall use contingent grant funds to reimburse the department
12 11 of human services for its expenses in administering the fund.
12 12 Grants are limited to 25 percent of 130 percent of the federal
12 13 poverty level and may be used only for replacement of personal
12 14 property, home repair, and temporary housing assistance.
12 15 LSB 5381XD 81
12 16 ec:nh/gg/14.1